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Pro Se

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re

BOYSIN RALPH LORICK,
CYNTHIA THERESA LORICK,

Case No. 16-45645 (NHL)

Debtors.

Chapter 11

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**APPLICATION FOR AN ORDER TO SHOW CAUSE FIXING METHOD OF
SERVICE, SHORTENING NOTICE PERIOD, AND SCHEDULING HEARING ON
THE MOTION OF ORTIZ & ORTIZ LLP TO WITHDRAW AS DEBTOR'S COUNSEL**

TO: THE HONORABLE NANCY HERSHEY LORD,
UNITED STATES BANKRUPTCY JUDGE

Ortiz & Ortiz, L.L.P. ("O & O"), *pro se*, moves under 11 U.S.C. § 105(a), Federal Rule of Bankruptcy Procedure Rule 9006(c), and Rule 9077-1(c) of the Local Bankruptcy Rules for the Eastern District of New York ("Local Rules"), for the entry of an order to show cause shortening the notice period and scheduling a hearing on O & O's Motion to Withdraw as Debtors' Counsel. In support, O & O states as follows:

BACKGROUND

1. O & O respectfully does not repeat the historical background of the case, due to the multiple pleadings and motions that have been filed, and the Court's familiarity with the case.

2. The Debtor has a Court-ordered closing on the sale of the Debtors' property, known as 3126 Coney Island Avenue, Brooklyn, New York (the "Property"), scheduled for next Tuesday, November 7th, and an adjourned hearing on a number of matters scheduled for 10:45 a.m. on that same day. The closing is scheduled to occur in O & O's office at 2:00 p.m.

3. On November 2, 2017, O & O learned that the Debtors filed an action against Norma E. Ortiz and Your Honor in the Eastern District of New York on October 27, 2017. On November 3rd, O & O filed a Motion to Withdraw as Debtors' Counsel (the "Motion"). A copy of the Motion is annexed hereto.

RELIEF REQUESTED

4. O & O requests that the Court enter the proposed order to show cause to shorten the notice period required for the Motion, fix the method of service, and schedule a hearing on the Motion for November 7th, or as soon as the Court is available.

5. Local Bankruptcy Rule 9006-1 provides generally for 14 days' notice of motions such as the Motion. E.D.N.Y. Local Bankruptcy Rule 9006-1. The applicable time period, however, may be modified further by court order. Id. In addition, Bankruptcy Code Section 105(a) provides that the Court, "may issue an order . . . necessary or appropriate to carry out the provisions of [the Bankruptcy Code.] 11 U.S.C. § 105(a). Shortening time is also expressly contemplated in and permitted by Local Rule 9077-1(c). E.D.N.Y. Local Bankruptcy Rule 9077-1.

6. O & O asserts that the action commenced against Norma E. Ortiz has created a change in circumstances that requires the Court's immediate attention. The action may render O & O disqualified to serve as the Debtors' counsel under Bankruptcy Code Section 327. Given

the imminent scheduled closing of the Property, the Debtors and the estate require counsel authorized to act on their behalf. As a result, O & O respectfully requests that the Court enter the proposed Order to Show Cause scheduling a hearing on the Motion for November 7th at 10:45 a.m. so as to ensure no delay in the prosecution of the Debtors' case.

7. In addition, O & O requests that the Court authorize it to serve the Motion and the Order to Show Cause to by electronic mail or facsimile transmission to (1) the Office of the U.S. Trustee, (2) the Debtors, (3) Karam Dahiya, Esq., (4) Counsel to Mortgagee Wells Fargo, (5) Counsel to Soleyman Galchi, (6) Counsel to the Receiver Douglas Rosenberg, and (7) Jack Geula.

8. For the reasons stated herein, in the annexed Rule 9077 Declaration, and in the Motion, it is respectfully submitted that such notice should be deemed adequate under the circumstances of this case.

9. No previous application for relief requested herein has been made to this or any other court.

WHEREFORE, O & O respectfully requests that the Court grant the relief requested herein and grant such other and further relief as is just.

Dated: November 3, 2017
Astoria, New York

/s/Norma E. Ortiz
Norma E. Ortiz
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AFFIRMATION OF MARTHA J. DE JESUS

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re

BOYSIN RALPH LORICK,
CYNTHIA THERESA LORICK,

Case No. 16-45645 (NHL)

Debtors.

Chapter 11

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BANKR. E.D.N.Y. LOCAL RULE 9077-1 AFFIRMATION

Martha J. de Jesus, an associate of Ortiz & Ortiz, L.L.P., hereby affirms as follows:

1. I submit this affirmation in support of the O & O's request for an order to show cause to proceed other than by notice of motion on its motion to assume its commercial lease (the "Motion"), to shorten the notice period required for the Motion, fix the method of service, and schedule a hearing on the Motion for November 7, 2017.

2. O & O is scheduled to conduct a closing on the sale of 3126 Coney Island Avenue, Brooklyn, New York, on November 7, 2017, at 2:00 p.m. Given the fact that the Debtors sued the firm's managing partner, O & O can not proceed to represent the Debtors without further order of the Court. If O & O has been rendered disqualified by the Debtors' law suit, it can not continue to represent the estate and the Debtors. Substitute counsel must be retained immediately to represent the Debtors and the estate.

I swear under the penalty of perjury that the foregoing is true and accurate.

Dated: September 14, 2017
Queens, New York

/s/Martha J. de Jesus
Martha J. de Jesus
Ortiz & Ortiz, L.L.P.
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Tel. (718) 522-1117

Proposed Order to Show Cause

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re

BOYSIN RALPH LORICK,
CYNTHIA THERESA LORICK,

Case No. 16-45645 (NHL)

Debtors.

Chapter 11

-----X

**ORDER TO SHOW CAUSE ON MOTION BY ORTIZ & ORTIZ LLP
TO WITHDRAW AS DEBTORS' COUNSEL**

Upon the Motion by Ortiz & Ortiz LLP to Withdraw as Debtors' Counsel dated November 3, 2017 (the "Motion"), the supporting Declaration of Norma E. Ortiz dated November 3, 2017, the Local Rule 9077-1 Affirmation of Martha J. de Jesus, and the Application for an Order to Show Cause Fixing Method of Service and Shortening the Notice Period for a Hearing on the Motion (the "Application"); and it appearing that absent the relief requested, Ortiz & Ortiz LLP, the Debtors, and the estate may suffer immediate harm, and it appearing from the Application and supporting documents that entry of this Order to Show Cause is necessary and appropriate in accordance with Local Rule 9077-1, it is

ORDERED, that a hearing on the Motion is scheduled for November 7, 2017, at 10:45 a.m., or as soon thereafter as counsel can be heard (the "Hearing"), why the relief requested in the Motion should not be granted; and it is further

ORDERED, that service of a copy of this Order to Show Cause and the supporting papers by electronic mail or facsimile transmission to (1) the Office of the U.S. Trustee, (2) the Debtors, (3) Karam Dahiya, Esq., (4) Counsel to Mortgagee Wells Fargo, (5) Counsel to Soleyman Galchi, (6) Counsel to the Receiver Douglas Rosenberg, and (7) Jack Geula. by November 6, 2017, shall be adequate and sufficient notice of the Motion and the Hearing; and

it is further

ORDERED, that objections, if any, to the relief requested in the Motion may be raised at the hearing; and it is further

ORDERED, that ample cause has been shown for a reduction of time for notice of consideration of the Motion under Fed. R. Bankr. Proc. 9006(c) and for granting the relief requested.

Dated: November __, 2017
Brooklyn New York

HON. NANCY HERSHEY LORD
UNITED STATES BANKRUPTCY JUDGE

MOTION TO WITHDRAW

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Pro Se

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

In re

BOYSIN RALPH LORICK,
CYNTHIA THERESA LORICK,

Case No. 16-45645 (NHL)

Debtors.

Chapter 11

-----X

**APPLICATION OF ORTIZ & ORTIZ, L.L.P., PURSUANT TO LOCAL
RULE 2090-1(d), TO WITHDRAW AS DEBTORS' COUNSEL**

Ortiz & Ortiz, L.L.P. ("O & O"), counsel of record to Boysin and Cynthia Lorick (the "Debtors"), hereby states, in support of its application to withdraw as counsel, as follows:

1. O & O has served as Debtors' counsel since the Chapter 11 case was commenced on December 15, 2016.
2. For the reasons set forth in the annexed Declaration of Norma E. Ortiz, O & O has determined that it can no longer represent the Debtors in the prosecution of their case absent further order of the Court.

RELIEF REQUESTED

3. O & O hereby requests the entry on an order permitting it to withdraw as counsel pursuant to Local Rule 2090-1(d). Local Rule 2090-1(d) provides

(d) Withdrawal or Substitution of Attorneys of Record.

An attorney who has been authorized to be retained or has appeared as the attorney of record for any party in any case or adversary proceeding may

not withdraw or be relieved or displaced except by order after notice to the party represented, any adversaries (if applicable), the United States trustee and the trustee. An application for such an order shall include a showing by affidavit of satisfactory reasons for withdrawal or displacement and the posture of the case, including the status of any pending matters.

4. As set forth in the annexed Declaration of Norma E. Ortiz, the Debtors have commenced an action against the partner responsible for the Debtors' case, Norma E. Ortiz. The action demonstrates, among other things, a complete break-down of the attorney-client relationship and poses an actual conflict of interest among the Debtors and O & O.

5. The following matters are pending and/or should be performed by the Debtors:

- Conduct the closing of the sale of the property known as 3126 Coney Island Ave., Brooklyn, New York (the "Property")
- Fix amounts due for administrative claimants, including the Receiver, his counsel, the Mortgagee's counsel, O & O, and any violations and fines levied against the Property
- Retain an accountant to determine tax liability of the estate and the Debtors
- File a plan of reorganization or motion to dismiss case
- Address pending personal injury actions
- File operating reports and pay quarterly fees

6. O & O is willing to continue to perform the services necessary for the estate until substitute counsel is authorized, but solely with the Court's approval. O & O does not seek to hinder or delay the proceedings in anyway, but is required to disclose to the Court, the U.S. Trustee, and parties in interest when an actual conflict of interest arises for the firm. As the court noted in In re Rancourt, 207 B.R. 338 (Bankr. N.H. 1997),

Attorneys choosing to continue to represent an individual debtor, or the principals and insiders of a corporate debtor, while also undertaking to be appointed to serve as the attorneys for the debtor-in-possession under the provisions of chapter 11 of the Bankruptcy Code, including particularly the provisions of § 1107 of the Bankruptcy Code, need to understand and be sensitive to the potential conflicts and divergence of interests in that situation that

may develop during the course of the chapter 11 proceedings, and that may require disclosure that they "represent an interest adverse to the estate" and seek authorization to continue their representation or representations as may be appropriate after notice and evaluation of the conflict and its relative importance in the proceedings. 11 U.S.C. §§ 327(a) and 328(c). The fact that the attorney may be qualified to act for the debtor-in-possession as a "disinterested person" at the outset of the proceedings does not mean that the *separate requirement* under these statutes of not representing a client having an "interest adverse to the estate" may not be implicated and require disclosure as matters develop during the course of the reorganization proceeding. See Rome v. Braunstein, supra, 19 F.3d at 57-58.

Id. at 361-362.

7. The commencement of the Action, among other things, mandates that O & O immediately disclose the change in circumstances to the Court to ensure that the Debtors and the estate are represented by counsel that is qualified under 11 U.S.C. § 327.

8. O & O requests that notice of this application be limited to (1) the U.S. Trustee, (2) Counsel to the Receiver Douglas Rosenberg, (3) the Debtors, (4) Counsel to the Mortgagee Wells Fargo, (5) Counsel to Soleyman Galchi, the purchaser of the Property, and (6) Jack Geula, the back-up purchaser of the Property. These parties are the only parties that have participated actively in this case.

WHEREFORE, O & O requests that the Court grant the relief requested herein, and grant such other and further relief as deemed just.

Dated: November 3, 2017
Astoria, New York

/s/Norma Ortiz
Norma E. Ortiz
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Declaration of Norma E. Ortiz

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re

BOYSIN RALPH LORICK,
CYNTHIA THERESA LORICK,

Case No. 16-45645 (NHL)

Debtors.

Chapter 11

-----X

DECLARATION OF NORMA E. ORTIZ

Norma E. Ortiz, states as follows:

1. My firm was retained by the above-captioned Debtors and authorized to serve as counsel by court order dated January 9, 2017 (ECF. No. 31).

2. On November 2, 2017, I was informed by Karam Dahiya, Esq., that he believed the Debtors had commenced an action against my firm. I performed a search, and located an action entitled “Boysin Lorick and Cynthia Lorick v. Hon. Nancy Hershey Lord and Norma Ortiz” bearing docket number 17-cv-06307-E NV-JO (the “Action”). The Action was filed in the Eastern District of New York on October 27, 2017. A copy of the docket sheet is annexed hereto as Exhibit A. I have not been served with the complaint, or any other documents, and the Debtors did not inform me of the Action.

3. Debtor’s counsel in an individual Chapter 11 case is duty bound to represent the interests of the estate and the interests of the individual debtors. It is not uncommon for those interests to diverge. My firm has taken all steps possible to accommodate the Debtors’s desire to

maintain title to the property known as 3126 Coney Island Avenue, Brooklyn, New York (the “Property”) while concurrently taking all steps necessary to speedily prosecute the case and realize value for creditors. My firm made many attempts to assist the Debtors in their attempts to obtain the funding needed to satisfy all creditors, while abiding by the Court’s order to pursue a sale if financing was not secured by a date certain.

4. As the Court is aware, the Debtors seek to retain substitute counsel and have made clear that they no longer wish my firm to represent them. Although my firm is duty bound to represent the estate until further order of the Court, the commencement of the Action evidences that my firm can not continue to represent the interests of the Debtors individually. The Action poses an actual conflict of interest among the Debtors and I.

5. The additional grounds for my firm’s request are protected by the attorney-client privilege and cannot be disclosed herein.

I declare under the penalty of perjury that the foregoing is accurate and correct.

Dated: November 3, 2017
Astoria, New York

S/Norma E. Ortiz
Norma E. Ortiz

EXHIBIT A

**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:17-cv-06307-ENV-JO**

Lorick et al v. Hershey Lord et al
Assigned to: Judge Eric N. Vitaliano
Referred to: Magistrate Judge James Orenstein
Cause: 28:1331 Fed. Question

Date Filed: 10/27/2017
Jury Demand: None
Nature of Suit: 890 Other Statutory Actions
Jurisdiction: U.S. Government Defendant

Plaintiff**Boysin Ralph Lorick**

represented by **Boysin Ralph Lorick**
38 Utica Road
Edison, NJ 08820
908-565-3011
PRO SE

Plaintiff**Cynthia Theresa Lorick**

represented by **Cynthia Theresa Lorick**
38 Utica Road
Edison, NJ 08820
908-565-3011
PRO SE

V.

Defendant**Hon. Nancy Hershey Lord****Defendant****Norma Ortiz**

| Date Filed | # | Docket Text |
|------------|--------------------------|---|
| 10/27/2017 | <u>1</u> | COMPLAINT against All Defendants, filed by Boysin Ralph Lorick, Cynthia Theresa Lorick. (Attachments: # <u>1</u> Civil Cover Sheet) (Bowens, Priscilla) (Entered: 10/31/2017) |
| 10/27/2017 | <u>2</u> | Summons Issued as to All Defendants. (Bowens, Priscilla) (Entered: 10/31/2017) |
| 10/27/2017 | | FILING FEE: \$ 400, receipt number 4653120871 (Bowens, Priscilla) (Entered: 10/31/2017) |
| 10/30/2017 | <u>4</u> | Emergency MOTION to Stay <i>the Bankruptcy Case #16-45645</i> , filed by Boysin Ralph Lorick, Cynthia Theresa Lorick. (Galeano, Sonia) (Entered: 10/31/2017) |
| 10/31/2017 | <u>3</u> | In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that <i>if</i> all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action including a (jury or nonjury) trial and to order the entry of a final judgment. Attached to the Notice is a blank copy of the consent form that should be filled out, signed and filed electronically only if all parties wish to consent. The form may also be accessed at the following link: http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf . You may withhold |

11/2/2017

| | | |
|------------|-------------------|--|
| | | your consent without adverse substantive consequences. Do NOT return or file the consent unless all parties have signed the consent. (Bowens, Priscilla) (Entered: 10/31/2017) |
| 11/01/2017 | 5 | Letter undated from Boysin Lorick and Cynthia Lorick to Clerk of the Court, submitting additional document. (Galeano, Sonia) (Entered: 11/02/2017) |
| 11/02/2017 | 6 | MEMORANDUM AND ORDER, For all the foregoing reasons, plttf's 4 Motion to Stay of the proceedings in In re Lorick, No. 1-16-45645-nhl (Bankr. EDNY), whether in the form of a temporary restraining order or writ of mandamus, is denied. Though it is highly dubious that jurisdiction exists to entertain the balance of the complaint, this matter is respectfully referred to Magistrate Judge James Orenstein for pretrial management in the ordinary course. (Ordered by Judge Eric N. Vitaliano on 11/2/2017) c/m (Galeano, Sonia) (Entered: 11/02/2017) |

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| Description: | Docket Report | Search Criteria: | 1:17-cv-06307-ENV-JO |
| Billable Pages: | 2 | Cost: | 0.20 |

PROPOSED ORDER

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

In re

BOYSIN RALPH LORICK,
CYNTHIA THERESA LORICK,

Case No. 16-45645 (NHL)

Debtors.

Chapter 11

-----X

**ORDER GRANTING APPLICATION OF ORTIZ & ORTIZ, L.L.P., PURSUANT
TO LOCAL RULES 2090-1, TO WITHDRAW AS DEBTOR'S COUNSEL**

Upon the Application of Ortiz & Ortiz, L.L.P., (“O & O”) pursuant to Local Rules 2090-1, to Withdraw as Counsel to Boysin and Cynthia Lorick, the above-captioned Debtors (the “Application”); notice of the Application having been provided to the Debtors, the U.S. Trustee, Counsel to the Receiver Douglas Rosenberg, Counsel to the Mortgagee Wells Fargo, Counsel to Soleyman Galchi, and Jack Geula; no written opposition to the Application having been filed and it appearing that sufficient notice having been given and that just cause exists to grant the relief requested in the Application; and for the reasons stated in the Application, it is hereby

ORDERED, that O & O is hereby relieved as counsel to Boysin and Cynthia Lorick Williams in the instant case and authorized to withdraw as counsel of record pursuant to Local Rule 2090-1(d).

Dated: November __, 2017
New York, New York

HON. NANCY H. LORD
U.S. BANKRUPTCY JUDGE